IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Crl.MC.No. 3152 of 2007()

ST.719/2006 of J.F.C.M-VI, THIRUVANANTHAPURAM
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PETITIONER: ACCUSED

P.KUMARASWAMY, S/O.PADMANABHA PILLAI,
PADMAKUMAR BHAVAN, NRA-8, NILAMEL DESOM
NEYYATTINKARA.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS: COMPLAINANT & STATE
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1. M.ALOYSIAS, S/O.MARIAKALIST REESIS HOME,
NRA 14, NILAMEL, NEYYATTINKARA.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR , HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/10/2007, THE COURT ON 15/10/2007 PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3152 of 2007

Dated this the 15th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Signature in the cheque is admitted. That the cheque is drawn on an account in the name of the petitioner does not also appear to be disputed. The crux of the contention, it is submitted at the Bar, is that a blank signed cheque handed over as security is misutilised by the complainant. The complainant has no specific case that the cheque was filled up by the accused. Proceedings for recovery of the amount before civil court and prosecution under Section 138 of the Negotiable Instruments Act before the criminal court are pending. Before the civil court, an application appears to have been made to send the cheque to the expert.

2. When the criminal case came up for trial, a petition was filed for stay of further proceedings in the case. The learned Magistrate by the impugned order rejected the prayer for stay. It is that order which is assailed in this petition.

3. I have considered all the relevant inputs. I am called upon to invoke the powers under Section 482 Cr.P.C against the impugned

order. The impugned order is, without dispute, only an interlocutory order. Law frowns upon challenge against interlocutory orders before superior courts during the pendency of trial. Not that this Court does not have jurisdiction. Such jurisdiction is the extraordinary inherent jurisdiction. Such jurisdiction cannot be invoked as a matter of course. Compelling and exceptional reasons must be shown to exist. In the facts and circumstances of this case, I am unable to agree that there is any such reasons available in this case. The petitioner must normally wait for the completion of the proceedings and then challenge the interlocutory orders also if necessary along with the final orders to be passed.

4. In the result, this Crl.M.C is, dismissed. I may hasten to observe that I have not intended to express any opinion on the factual controversies raised. I have dismissed this petition only because I am not satisfied that the extraordinary inherent jurisdiction deserves to be invoked.

(R.BASANT, JUDGE)

rtr/-